IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 16275 of 2005
Date of decision: 20.2.2007

Geja Singh and others ...Petitioners

Versus

Union Territory, Chandigarh and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE S. N. AGGARWAL

Present: None for the petitioners

Mr. Deepak Sharma, Advocate, for
the Union Territory, Chandigarh.

K.S.GAREWAL, J.

Geja Singh and 50 others have filed this petition seeking a writ in the nature of mandamus, directing the respondents to announce the award of compensation for the trees, which stood on 127.27 acres of land in Dhanas which stood acquired vide award dated November 30, 1990.

The Land Acquisition Collector, Chandigarh, filed a short written statement wherein it was stated that the petitioners' amended claim application was rejected by him on January 31, 2005. The said order has

been annexed as Annexure R/1.

A reading of the Collector's order reveals that some share-holders of shamlat land had represented that no compensation had been paid for the trees. CWP 3793 of 1996 was filed to claim compensation for the trees. The Court had perused the award and found that there were no trees on the land. The petition was dismissed as withdrawn with permission to seek appropriate amendment in the claim petition before the District Judge. Thereafter, vide order dated November 18, 1996, the Court had in CM 24008 of 1996 amended the above order and modified it to the effect that appropriate amendment in the claim petition shall be filed before the Land Acquisition Collector and not the District Judge.

Thereafter, the Collector obtained the comments of the Forest Department and on June 18, 1999 held that no compensation was payable on account of trees. The Collector had re-examined the whole issue and come to the conclusion that the claim appeared to be an afterthought. Furthermore, trees had been planted on the acquired land by the Forest Department after the acquisition of the land. There were no fruit trees and it was unlikely that any share-holders would plant such trees. In any case no evidence had been led in respect of the trees. The second reason, for declining the compensation for trees, was that plantation of non-fruit trees on a large scale is normally undertaken either by the Horticulture Department or Forest Department and it was not possible for the individuals to raise so many non-fruit trees and protect them without the help of any department. Thus the claim was rejected on January 31, 2005.

Section 3 (a) of the Land Acquisition Act 1894 defines the "land". Land includes benefits which arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

All constructions on land including trees are part of land. Therefore, whenever land is acquired and, it has trees standing on it, compensation for the land becomes a little higher than what would be assessed for barren land. If no compensation is awarded for trees, the land owners and other persons interested, can raise the issue in a reference under Section 18 of the Act before the District Judge to claim the enhanced value of the land because there were trees standing on it. It has become an unfortunate practice that Collectors usually record in their award that a supplementary award would be later given in respect of the trees. This practice is not proper and is impermissible in law. If trees are indeed standing on the land, the Collector should assess the value of the land accordingly. If there is construction on the land then the Collector must assess the value of the land taking the value of the construction into account.

Nevertheless, the Collector's award is very clear that there were no trees on the acquired land. Since there were no trees the award related only to the costs of the land. If the claimants were dissatisfied with the award, and claimed higher market value of the land including the trees which they claimed to be standing on the land, the proper course of action for them would have been to file a reference under Section 18 of the Act and claim enhancement of the compensation. The claimants/petitioners failed to do so.

The petitioners had ample opportunities before the Collector to

show that trees did exits on the land in question when it was acquired, the type of trees, their value, the annual income from the trees (through sale of fruit or fire wood etc.) These would have been the relevant factors for the Collector to consider after getting the direction of the court to re-consider the matter but the petitioners failed to present any evidence.

Therefore, we find no merit in this petition. Dismissed.

(K.S. GAREWAL)
JUDGE

20.2.2007 **(S.N. AGGARWAL)**
prem **JUDGE**